IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.1158 OF 2007

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Office notes, office memoranda of Coram, appearances, Court's orders or directions and Registrar's orders.	Court's or Judge's orders.

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Shri Bhushan A. Walimbe for the Petitioners.

CORAM : ABHAY S.OKA, J.
DATED : FEBRUARY 23, 2007.

P.C.:

1. By this Writ Petition under Article 227 of the Constitution of India, the Petitioners have impugned order dated 21st August, 2006 by which the learned Trial Judge has permitted the Respondent to amend the counterclaim. The contention of the learned Advocate for the Petitioners is that by the proposed amendment, the Respondent has been allowed to incorporate a claim for maintenance in the counter claim which is barred by limitation. He submitted that in any event, the Respondent has no right to claim maintenance being the second wife.

2. In so far as the issue of limitation is concerned, the Petitioners can always raise a contention based on bar of limitation by filing additional written statement to the amended counter claim. Whether the Respondent is entitled to

maintenance or not is an issue which is to be decided at the time of trial. The Petitioners can always raise necessary contention in that behalf in the additional written statement to the amended counter claim.

3. No case is made out for interference. Subject to what is observed above, Writ Petition is rejected.

JUDGE